

# **Chapter 181, P.L. 2003**

(Approved September 12, 2003)

[Second Reprint]

**SENATE, No. 1434**

## **STATE OF NEW JERSEY**

**210th LEGISLATURE**

INTRODUCED MARCH 26, 2002

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### **SYNOPSIS**

Eliminates remarriage prohibition for PFRS and SPRS accidental death benefits.

### **CURRENT VERSION OF TEXT**

As reported by the Senate Budget and Appropriations Committee on May 15, 2003, with amendments.

**EXPLANATION** - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SSG committee amendments adopted June 6, 2002.

<sup>2</sup> Senate SBA committee amendments adopted May 15, 2003.

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### (Sponsorship Updated As Of: 6/24/2003)

AN ACT concerning death benefits in the Police and Firemen's Retirement System and the State Police Retirement System and amending P.L.1944, c.255 and P.L.1965, c.89.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1944, c.255 (C.43:16A-1) is amended to read as follows:

1. As used in this act:

(1) "Retirement system" or "system" shall mean the Police and Firemen's Retirement System of New Jersey as defined in section 2 of this act.

(2) (a) "Policeman" shall mean a permanent, full-time employee of a law enforcement unit as defined in section 2 of P.L.1961, c.56 (C.52:17B-67) or the State, other than an officer or trooper of the Division of State Police whose position is covered by the State Police Retirement System, whose primary duties include the investigation, apprehension or detention of persons suspected or convicted of violating the criminal laws of the State and who:

(i) is authorized to carry a firearm while engaged in the actual performance of his official duties;

(ii) has police powers;

(iii) is required to complete successfully the training requirements prescribed by P.L.1961, c.56 (C.52:17B-66 et seq.) or comparable training requirements as determined by the board of trustees; and

(iv) is subject to the physical and mental fitness requirements applicable to the position of municipal police officer established by an

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agency authorized to establish these requirements on a Statewide basis, or comparable physical and mental fitness requirements as determined by the board of trustees.

The term shall also include an administrative or supervisory employee of a law enforcement unit or the State whose duties include general or direct supervision of employees engaged in investigation, apprehension or detention activities or training responsibility for these employees and a requirement for engagement in investigation, apprehension or detention activities if necessary, and who is authorized to carry a firearm while in the actual performance of his official duties and has police powers.

(b) "Fireman" shall mean a permanent, full-time employee of a firefighting unit whose primary duties include the control and extinguishment of fires and who is subject to the training and physical and mental fitness requirements applicable to the position of municipal firefighter established by an agency authorized to establish these requirements on a Statewide basis, or comparable training and physical and mental fitness requirements as determined by the board of trustees. The term shall also include an administrative or supervisory employee of a firefighting unit whose duties include general or direct supervision of employees engaged in fire control and extinguishment activities or training responsibility for these employees and a requirement for engagement in fire control and extinguishment activities if necessary. As used in this paragraph, "firefighting unit" shall mean a municipal fire department, a fire district, or an agency of a county or the State which is responsible for control and extinguishment of fires.

(3) "Member" shall mean any policeman or fireman included in the membership of the retirement system pursuant to this amendatory and supplementary act, P.L.1989, c.204 (C.43:16A-15.6 et al.).

(4) "Board of trustees" or "board" shall mean the board provided for

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in section 13 of this act.

(5) "Medical board" shall mean the board of physicians provided for in section 13 of this act.

(6) "Employer" shall mean the State of New Jersey, the county, municipality or political subdivision thereof which pays the particular policeman or fireman.

(7) "Service" shall mean service as a policeman or fireman paid for by an employer.

(8) "Creditable service" shall mean service rendered for which credit is allowed as provided under section 4 of this act.

(9) "Regular interest" shall mean interest as determined by the State Treasurer, after consultation with the Directors of the Divisions of Investment and Pensions, the board of trustees and the actuary. It shall bear a reasonable relationship to the percentage rate of earnings on investments based on the market value of assets but shall not exceed the assumed percentage rate of increase applied to salaries plus 3%, provided however that the board of trustees shall not set the average percentage rate of increase applied to salaries below 6%.

(10) "Aggregate contributions" shall mean the sum of all the amounts, deducted from the compensation of a member or contributed by him or on his behalf, standing to the credit of his individual account in the annuity savings fund.

(11) "Annuity" shall mean payments for life derived from the aggregate contributions of a member.

(12) "Pension" shall mean payments for life derived from contributions by the employer.

(13) "Retirement allowance" shall mean the pension plus the annuity.

(14) "Earnable compensation" shall mean the full rate of the salary that would be payable to an employee if he worked the full normal working time for his position. In cases where salary includes maintenance, the retirement system shall fix the value of that part of the salary not paid in money which shall be considered under this act.

(15) "Average final compensation" shall mean the average annual

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salary upon which contributions are made for the three years of creditable service immediately preceding his retirement or death, or it shall mean the average annual salary for which contributions are made during any three fiscal years of his or her membership providing the largest possible benefit to the member or his beneficiary.

(16) "Retirement" shall mean the termination of the member's active service with a retirement allowance granted and paid under the provisions of this act.

(17) "Annuity reserve" shall mean the present value of all payments to be made on account of any annuity or benefit in lieu of any annuity computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(18) "Pension reserve" shall mean the present value of all payments to be made on account of any pension or benefit in lieu of any pension computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(19) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(20) "Beneficiary" shall mean any person receiving a retirement allowance or other benefit as provided by this act.

(21) "Child" shall mean a deceased member's or retirant's unmarried child (a) under the age of 18, or (b) 18 years of age or older and enrolled in a secondary school, or (c) under the age of 24 and enrolled in a degree program in an institution of higher education for at least 12 credit hours in each semester, provided that the member died in active service as a result of an accident met in the actual performance of duty at some definite time and place, and the death was not the result of the member's willful misconduct, or (d) of any age who, at the time of the member's or retirant's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical

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board.

(22) "Parent" shall mean the parent of a member who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

(23) "Widower" shall mean the man to whom a member or retirant was married on the date of her death and who has not remarried. In the event of the payment of <sup>2</sup>[an]<sup>2</sup> accidental death <sup>2</sup>[benefit] benefits, pursuant to section 10 of P.L.1944, c.255 (C.43:16A-10)<sup>2</sup>, the restriction concerning remarriage shall be waived.

(24) "Widow" shall mean the woman to whom a member or retirant was married on the date of his death and who has not remarried. In the event of the payment of <sup>2</sup>[an]<sup>2</sup> accidental death <sup>2</sup>[benefit] benefits, pursuant to section 10 of P.L.1944, c.255 (C.43:16A-10)<sup>2</sup>, the restriction concerning remarriage shall be waived.

(25) "Fiscal year" shall mean any year commencing with July 1, and ending with June 30, next following.

(26) "Compensation" shall mean the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary duties beyond the regular workday.

(27) "Department" shall mean any police or fire department of a municipality or a fire department of a fire district located in a township or a county police or park police department or the appropriate department of the State or instrumentality thereof.

(28) "Final compensation" means the compensation received by the member in the last 12 months of creditable service preceding his retirement or death.



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(29) (Deleted by amendment, P.L.1992, c.78).

(30) (Deleted by amendment, P.L.1992, c.78).

(cf: P.L.1999, c.428, s.1)

2. Section 10 of P.L.1944, c.255 (C.43:16A-10) is amended to read as follows:

10. (1) Upon the death of a member in active service as a result of an accident met in the actual performance of duty at some definite time and place, and such death was not the result of the member's willful negligence, an accidental death benefit shall be payable if a report of the accident is filed in the office of the retirement system within 60 days next following the accident, but the board of trustees may waive such time limit, for a reasonable period, if in the judgment of the board the circumstances warrant such action. No such application shall be valid or acted upon unless it is filed in the office of the retirement system within five years of the date of such death.

The provisions of this subsection shall also apply to a member who is a fireman and who dies as a result of an accident met in the actual performance of duty as a volunteer fireman in any municipality in the State, provided the member's death was not the result of the member's willful negligence.

(2) Upon the receipt of proper proofs of the death of a member on account of which an accidental death benefit is payable, there shall be paid to his widow or widower a pension of 70% of the compensation, upon which contributions by the member to the annuity savings fund were based in the last year of creditable service, for the use of herself or himself and the children of the deceased member[, to continue during her or his widowhood]; if there is no surviving widow or widower or in case the widow or widower dies [or remarries], 20% of such compensation will be payable to one surviving child, 35% of such compensation to two surviving children in equal shares and if there be three or more children, 50% of such compensation will be payable to such children in equal shares.

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If there is no surviving widow, widower or child, 25% of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service, will be payable to one surviving dependent parent or 40% of such compensation will be payable to two surviving parents in equal shares.

In the event of accidental death occurring in the first year of creditable service, the benefits, payable pursuant to this subsection, shall be computed at the annual rate of compensation.

(3) If there is no surviving widow, widower, child or dependent parent, there shall be paid to any other beneficiary of the deceased member, his aggregate contributions at the time of death.

(4) In no case shall the death benefit provided in subsection (2) be less than that provided under subsection (3).

(5) In addition to the foregoing benefits payable under subsection (2) or (3), there shall also be paid in one sum to such beneficiary, if living, as the member shall have nominated by written designation duly executed and filed with the retirement system, otherwise to the executor or administrator of the member's estate, an amount equal to 3 1/2 times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service.

(6) In addition to the foregoing benefits, the State shall pay to the member's employer-sponsored health insurance program all health insurance premiums for the coverage of the member's surviving widow or widower and dependent children.

(cf: P.L.1996, c.89, s.2)

<sup>2</sup>[3. (New section) Any person who was married to a member who died in active service as a result of an accident met in the actual performance of duty and who became ineligible to receive the accidental death benefit payable pursuant to section 10 of P.L.1944, c.255 (C.43:16A-10) because of remarriage prior to the effective date of this act, P.L. , c. (C. ) (now pending before the Legislature as this bill), shall be reclassified as a surviving widow or

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widower as of the effective date of this act.]]<sup>2</sup>

<sup>1</sup>[4. (New section) The benefits payable upon receipt of proper proof of death of a member of the Police and Firemen's Retirement System in active service under section 9 of P.L.1944, c.255 (C.43:16A-9) shall be paid to a widow or widower or child or parent, as appropriate, of a member who had 10 or more years of creditable service in the retirement system, who died in active service on or after June 1, 1995 and before January 1, 1998, and whose widow or widower had, on May 1, 2001, an appeal of a denial of an accidental death benefit pursuant to section 10 of P.L.1944, c.255 (C.43:16A-10) pending before the board of trustees of the retirement system, if the appeal before the board has been withdrawn or denied and an eligible beneficiary applies to the Division of Pensions and Benefits within 90 days following the effective date of P.L. , c. (now pending before the Legislature as this bill) and subject to the return to the system of the member's aggregate contributions received by the beneficiary. The State shall be liable for all costs to the retirement system attributable to this section. The benefits provided in this section shall be paid prospectively only, in the manner provided by the division for the payment of such benefits generally.]]<sup>1</sup>

<sup>1</sup>[5.] <sup>2</sup>[4.] <sup>3</sup> Section 3 of P.L.1965, c.89 (C.53:5A-3) is amended to read as follows:

3. As used in this act:

a. "Aggregate contributions" means the sum of all the amounts, deducted from the salary of a member or contributed by him or on his behalf, standing to the credit of his individual account in the Annuity Savings Fund. Interest credited on contributions to the former "State Police Retirement and Benevolent Fund" shall be included in a member's aggregate contributions.

b. "Annuity" means payments for life derived from the aggregate contributions of a member.

c. "Annuity reserve" means the present value of all payments to be

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made on account of any annuity or benefit in lieu of an annuity, computed upon the basis of such mortality tables recommended by the actuary as the board of trustees adopts and regular interest.

d. "Beneficiary" means any person entitled to receive any benefit pursuant to the provisions of this act by reason of the death of a member or retirant.

e. "Board of trustees" or "board" means the board provided for in section 30 of this act.

f. "Child" means a deceased member's or retirant's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's or retirant's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board.

g. "Creditable service" means service rendered for which credit is allowed on the basis of contributions made by the member or the State.

h. "Parent" means the parent of a member who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

i. "Final compensation" means the average compensation received by the member in the last 12 months of creditable service preceding his retirement or death. Such term includes the value of the member's maintenance allowance for this same period.

j. "Final salary" means the average salary received by the member in the last 12 months of creditable service preceding his retirement or death. Such term shall not include the value of the member's maintenance allowance.

k. "Fiscal year" means any year commencing with July 1 and ending with June 30 next following.

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l. "Medical board" means the board of physicians provided for in section 30 of this act.

m. "Member" means any full-time, commissioned officer, non-commissioned officer or trooper of the Division of State Police of the Department of Law and Public Safety of the State of New Jersey enrolled in the retirement system established by this act.

n. "Pension" means payment for life derived from contributions by the State.

o. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of any pension computed on the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees and regular interest.

p. "Regular interest" means interest as determined by the State Treasurer, after consultation with the Directors of the Divisions of Investment and Pensions, the board of trustees and the actuary. It shall bear a reasonable relationship to the percentage rate of earnings on investments based on the market value of the assets but shall not exceed the assumed percentage rate of increase applied to salaries plus 3%, provided however that the board of trustees shall not set the average percentage rate of increase applied to salaries below 6%.

q. "Retirant" means any former member receiving a retirement allowance as provided by this act.

r. "Retirement allowance" means the pension plus the annuity.

s. "State Police Retirement System of New Jersey," herein also referred to as the "retirement system" or "system," is the corporate name of the arrangement for the payment of retirement allowances and of the benefits under the provisions of this act including the several funds placed under said system. By that name, all of its business shall be transacted, its funds invested, warrants for moneys drawn, and payments made and all of its cash and securities and other property held. All assets held in the name of the former "State Police Retirement and Benevolent Fund" shall be transferred to the retirement system established by this act.

t. "Surviving spouse" means the person to whom a member or a

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retirant was married on the date of the death of the member or retirant. The dependency of such a surviving spouse will be considered terminated by the marriage of the surviving spouse subsequent to the member's or the retirant's death, except that in the event of the payment of <sup>2</sup>[an]<sup>2</sup> accidental death <sup>2</sup>[benefit] benefits, pursuant to section 14 of P.L.1965, c.89 (C.53:5A-14)<sup>2</sup>, the dependency of such a surviving spouse will not be considered terminated by the marriage of the surviving spouse subsequent to the member's death.

u. "Compensation" for purposes of computing pension contributions means the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the State for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary duties beyond the regular workday or shift.

(cf: P.L.1992, c.125, s.16)

<sup>1</sup>[6.] <sup>2</sup>[5.<sup>1</sup>] 4.<sup>2</sup> Section 14 of P.L.1965, c.89 (C.53:5A-14) is amended to read as follows:

14. a. Upon the death of a member in active service as a result of an accident met in the actual performance of duty at some definite time and place, and such death was not the result of the member's willful negligence, an accidental death benefit shall be payable if a report of the accident is filed in the office of the Division of State Police within 60 days next following the accident, but the board of trustees may waive such time limit, for a reasonable period, if in the judgment of the board the circumstances warrant such action. No such application shall be valid or acted upon unless it is filed in the office of the retirement system within five years of the date of such death.

b. (1) Upon the receipt of proper proofs of the death of a member on account of which an accidental death benefit is payable, there shall be paid to the surviving spouse a pension of 70% of final compensation or of adjusted final compensation, as appropriate, for the use of that spouse and

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children of the deceased, to continue for as long as the person qualifies as a "surviving spouse" for the purposes of this act. If there is no surviving spouse or in case the spouse dies [or remarries], 20% of final compensation or of adjusted final compensation, as the case may be, will be payable to one surviving child, 35% of final compensation or of adjusted final compensation, as the case may be, to two surviving children in equal shares and if there be three or more children, 50% of final compensation or of adjusted final compensation, as the case may be, will be payable to such children in equal shares.

If there is no surviving spouse or child, 25% of final compensation will be payable to one surviving parent or 40% of final compensation will be payable to two surviving parents in equal shares.

As used in this paragraph, "adjusted final compensation" means the amount of final compensation or final compensation as adjusted, as the case may be, increased by the same percentage increase which is applied in any adjustments of the compensation schedule of active members after the member's death and before the date on which the deceased member of the retirement system would have accrued 25 years of service under an assumption of continuous service, at which time the amount resulting from such increases shall become fixed and shall be the basis for adjustments pursuant to the Pension Adjustment Act, P.L.1958, c.143 (C.43:3B-1 et seq.). Any adjustments to final compensation or adjusted final compensation shall take effect at the same time as any adjustments in the compensation schedule of active members. The provisions of the Pension Adjustment Act shall not apply to any pension based upon adjusted final compensation other than the fixed pension in effect at the conclusion of the 25-year period.

(2) In the event of accidental death occurring in the first year of creditable service, the benefits, payable pursuant to this subsection, shall be computed at the annual rate of compensation.

c. If there is no surviving spouse, child or parent, there shall be paid to any other beneficiary of the deceased member, his aggregate contributions at the time of death.

d. In no case shall the death benefits provided in subsection b. be less

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than that provided under subsection c.

e. In addition to the foregoing benefits payable under subsection a. or b., there shall also be paid in one sum to the member's beneficiary, an amount equal to 3 1/2 times final compensation.

f. (Deleted by amendment.)

g. (Deleted by amendment.)

h. In addition to the foregoing benefits, the State shall pay to the member's employer-sponsored health insurance program all health insurance premiums for the coverage of the member's surviving spouse and surviving children.

(cf: P.L.2001, c.350, s.1)

<sup>1</sup>[7.] <sup>2</sup>[6.<sup>1</sup> (New section) Any person who was married to a member who died in active service as a result of an accident met in the actual performance of duty and who became ineligible to receive the accidental death benefit payable pursuant to section 14 of P.L.1965, c.89 (C.53:5A-14) because of remarriage prior to the effective date of this act, P.L. , c. (C. ) (now pending before the Legislature as this bill), shall be reclassified as a surviving spouse as of the effective date of this act.]<sup>2</sup>

<sup>1</sup>[8.] <sup>2</sup>[7.<sup>1</sup>] 5.<sup>2</sup> This act shall take effect immediately.